

The Special Administrative Law Judge found that claimant sustained injury by accident on April 3, 1995 and that the employer had actual knowledge of the accident. The Appeals Board disagrees with the finding by the Special Administrative Law Judge that the employer had actual knowledge of the accident. Although there were several coworkers

that witnessed the incident to which claimant attributes his injury, the Appeals Board finds that none of those individuals were supervisory personnel. Furthermore, the Appeals Board finds that the claimant did not report the accident to a supervisor nor to the owners of the company within 10 days as required by K.S.A. 44-520. The first notice given to respondent of the accident was by a letter dated May 31, 1995 from claimant's counsel. Although this letter was received by respondent within 75 days of the accident, the claimant does not allege, nor does the evidence establish, just cause for claimant's failure to give notice of accident within 10 days so as to extend his time for giving notice under the statute. Therefore, the order of the Special Administrative Law Judge should be reversed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Award of Special Administrative Law Judge William F. Morrissey dated December 26, 1995 should be, and the same is hereby, reversed.

IT IS SO ORDERED.

Dated this ____ day of March 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Steven L. Brooks, Liberal, KS
Richard A. Boeckman, Great Bend, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Director